IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE DR JUSTICE G.YETHIRAJULU
WRIT PETITION NO : 15445 of 2004

Between:
C. Bhaskar Rao, S/o. Pullaiah,
Food Corporation of India, Palakol, West Godavari District.
..... PETITIONER

AND

1 The Food Corporation of India Barakhamba Road, New Delhi.
Rep. by its Managing Director.
2 The Senior Regional Manager, Food Corporation of India,
A.P. Region, HACA Bhawan, Hyderabad.
3 The District Manager, Food Corporation of India,
Vijayawada District Office Vijayawada.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of MANDAMUS or any other appropriate Writ, (i) declaring the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the F.C.I. Staff Regulations 1971 as illegal (ii) Declare the action of the respondents in recovering all the pecuniary losses without conducting detailed enquiry as illegal (iii) declare that action of the respondents in issuing the final orders in respect of the petitioner is in violation of the circular No. 236/2003 dated 23-7-2003 and consequently set aside the memorandums, memorandum of charges and the final orders of recovery made against the petitioner by the third respondent (as detailed in the annexure)

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent No.: MR.B.ANJANEYULU

The Court made the following :

ORDER:

The petitioner worked as an Assistant Grade I (Depot) in the respondent Corporation. He was entrusted with the work of Foodgrains storage and also transportation from the storage depots to destination points. The loading operations took place during 2001-02. He was involved in various loading operations to various destinations along with other employees working in the Depot. He was issued a charge memo dated 25-9-2003 for despatching of the rice stocks from B.S.C.,Gudiwada to Bommanapur alleging that there was a shortage of two full bags of 50 Kgs each and that he is responsible for the shortages. He submitted his explanation giving reasons for the shortage. Similarly, there was a shortage of four full bags of 50 Kgs each, regarding the loading operation that took place on 12-6-2001. There was also a shortage of rice valued at Rs. 4,398-28 in the memorandum of charge sheet. It was alleged that the loading operations took place on 22-6-2001 and that after unloading of stock, the consignee reported shortage of 14 full bags valued at Rs. 80,479/-. There are also other shortages attributed to the petitioner. He submitted explanation. But, the 2nd respondent without conducting any enquiry and without affording any opportunity to the petitioner passed the impugned order on 13-7-2004, imposing the penalty of recovery of the losses. The petitioner further contends that the order of the 2nd respondent is illegal and arbitrary and passed in violation of the principles of natural justice.

The learned Standing Counsel for the respondents submitted that against the impugned order of the 2nd respondent, a statutory appeal lies, but the petitioner without exhausting his remedy available,

approached this Court. Therefore, the Writ Petition cannot be maintained. He also stated that the petitioner is at liberty to prefer an appeal within 45 days from the date of receipt of a copy of the said order.

In the light of the submission made by the learned Standing Counsel for the respondents, the Writ Petition cannot be maintained at this stage. However, in the light of the circumstances explained by the petitioner, liberty is granted to him to prefer an appeal before the Authority concerned within the prescribed time and get appropriate orders according to law. Meanwhile, the recovery of the amount shall be kept in abeyance.

The Writ Petition is accordingly disposed of. No order as to costs.

Dr. G.Yethirajulu,J

21st September, 2004.
KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1 The Food Corporation of India Barakhamba Road, New Delhi.
Rep. by its Managing Director.
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4. 2CD copies

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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